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February 4, 2000

Sent via e-mail and fax, hand delivery or U.S. mail

Mary L. Cottrell, Secretary
Massachusetts Department of Telecommunications and Energy
One South Station, 2nd Floor
Boston, MA 02110

Re: Number Pooling, D.T.E. 99-99

Dear Ms. Cottrell:

Enclosed please find for filing the Attorney General's Comments in the above-referenced proceeding, together with a Certificate of Service.

Respectfully submitted,

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KJR/kr

Enc.

cc: Kevin Penders, Hearing Officer (w/enc.)

Robert Howley, Hearing Officer (w/enc.)

D. T. E. 99-99 Service List (w/enc.)

COMMONWEALTH OF MASSACHUSETTS

DEPARTMENT OF TELECOMMUNICATIONS AND ENERGY

Proceeding by the Department of Telecommunications and)
Energy to conduct mandatory thousands-block number)
pooling trials pursuant to the authority delegated by the)
Federal Communications Commission In the Matter of)
Massachusetts Department of Telecommunications and) D. T. E. 99-99
Energy's Petition for Waiver of Section 52.19 to Implement)
Various Area Code Conservation Methods in the 508, 617,)
781, and 978 Area Codes, CC Docket No. 96-98,)
FCC 99-246, NSD File No. L-99-19 (September 15, 1999))

ATTORNEY GENERAL'S COMMENTS

Pursuant to the January 26, 2000 Memorandum issued by the Hearing Officers, the Attorney General hereby submits to the Department of Telecommunications and Energy ("Department" or "D. T. E. ") his comments on Bell Atlantic's December 20, 1999 proposal ("Proposal") to implement thousands-block number pooling ("TNP") in the 508, 617, 781, and 978 area codes beginning April 4, 2000. Specifically, the Attorney General asserts the following:

Since jeopardy was declared in the 508 and 617 area codes (also called numbering plan areas or "NPAs") on March 4, 1998, the Department has been urged repeatedly to require the prompt implementation of area code conservation measures such as virtual pooling, rate center consolidation, and number pooling.

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The Department has not ordered implementation of any conservation measures to date, even in the face of increasing demand for new phone numbers, increasing competition in the local service market, and decreasing supply of numbers. Competition and the benefits it brings to consumers have already suffered from the Department's failure to adopt any conservation methods.

The Department has the authority and sufficient information to order TNP now. Four other states have recognized that the public interest demands prompt action and have ordered TNP immediately, rejecting the arguments by carriers for delay pending the release of new pooling software.

The Department must evaluate the carriers' information to determine whether Bell Atlantic's TNP Proposal will delay or avoid the need for new area codes. If the Proposal will not delay new area codes, then the Department should order total (all phases) TNP implementation by June 1, 2000, in 617 NPA, July 15, 2000, in 508 NPA, September 1, 2000, in 781 NPA, and October 15, 2000, in 978 NPA. Failure to order TNP will force the creation of new area codes, causing substantial costs and disruptions to consumers.

1. The Department has been urged repeatedly to adopt conservation methods to avoid new area codes.

On June 1, 1998, the Attorney General filed a Motion for Emergency Ruling to put in place virtual pooling, a number conservation method designed to maximize the efficient use of numbers and increase the available supply of numbers for eventual implementation of TNP. (1) The Department took comments on this motion in its area code conservation docket, D.T.E. 98-38, but did not act on the Attorney General's recommendation.

The Attorney General has also proposed rate center consolidation ("RCC") as a method of number conservation in D.T.E. 98-38. On March 19, 1999, the Attorney General suggested that the Department consider a Regional Call Plan ("RCP") and a Single Rate Center Plan ("SRP"), which would reduce the number of rate centers in Eastern Massachusetts from 203 to 25 (RCP) or to 1 (SRP), respectively. Currently, any carrier wanting to offer local telephone service in a rate center must acquire a block of 10,000 numbers assigned to that rate center, even if the carrier does not need all 10,000 numbers. The suggested plans would reduce the number of rate centers by enlarging the geographic boundaries of the rate centers, thus allowing carriers to better tailor their number requests and slowing the demand for numbers. The Attorney General submitted testimony and discovery responses pursuant to the Department's technical sessions on the Attorney General's plans, but the Department has not taken any further action in its investigation of this conservation method.

In his October 25, 1999 comments on number pooling in this docket, the Attorney General urged the Department to implement number pooling speedily to avoid the introduction of additional area codes (Attorney General Comments (October 25, 1999) at 1). The Attorney General reminded the Department that the public interest demands prompt action (id.). (2) The Department still has not issued an implementation order that sets the critical implementation date or schedule.

2. Carriers want to offer service to customers, but cannot due to a lack of numbers.

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Recent developments suggest that telephone carriers are trying to increase competition but are hampered by the lack of available number resources. For example, on December 16, 1999, MediaOne filed a petition ("MediaOne Request") with the Department for additional NXX (exchange) codes(3) outside of the current lottery allocation system because MediaOne is still too far down the priority list to satisfy the expected immediate demands for phone numbers.(4) MediaOne asserts it has had to scale back and delay its business expansion (MediaOne Request at 1). As MediaOne noted in its January 31, 2000, comments on Bell Atlantic's TNP Proposal: "This problem does not go away with inaction - it only becomes worse." MediaOne Comments, D.T.E. 99-99, January 31, 2000, at 2. The Department has not acted on MediaOne's petition.

A recent report issued by the North American Number Plan Administration ("NANPA") shows that all five Massachusetts area codes are either close to or in jeopardy of exhaust. An area code, or NPA, is in jeopardy of exhaust when the available supply of telephone numbers is not able to meet the forecasted demand for numbers for the next two years. According to NANPA, the updated NPA exhaust dates are as follows: 617 - 2Q 2001; 781 - 3Q 2001; 978 - 4Q 2001; 508 - 1Q 2002; 413 - 3Q 2002 (1999 COCUS and NPA Exhaust Analysis, January 18, 2000 update). NANPA set these exhaust dates assuming that the former lottery allocation system would continue.(5) On January 7, 2000, the industry changed the rationing procedures and created Emergency/Imminent Exhaust Pools for the 508 and 617 NPAs so that carriers can activate exchange codes more quickly. While this revision of the rationing procedure allows carriers quicker access to numbers, it may speed up the actual use of numbers and hasten the real exhaust dates of the NPAs.(6)

3. The Department can and should order TNP now.

The Department has the authority and sufficient information to issue a TNP implementation order now. On September 15, 1999, the FCC granted the Department's petition for area code conservation authority(7) and specifically allowed the Department to require all LNP-capable carriers to participate in a mandatory TNP trial.(8) While the Department issued an order on October 21, 1999, concerning pooling in the instant number pooling docket, D.T.E. 99-99 ("Massachusetts Pooling Order"), it did not specify an implementation date. The Department has taken comments, conducted discovery, and held an implementation meeting and a technical session in D.T.E. 99-99, yet has not ordered TNP implementation to begin by a date certain.

Indeed, although the Department was the first state commission to seek and receive approval to require TNP, four other state public utility commissions (California, New York, New Hampshire and Maine) have already ordered carriers to implement TNP immediately while the Department has failed to act to protect consumers from the unnecessary and avoidable deployment of new area codes.(9)

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4. The Department should not approve Bell Atlantic's TNP Proposal unless it finds it consistent with the area code conservation goal to delay or avoid new area codes.

In its January 20, 2000, filing, Bell Atlantic proposed to begin implementing TNP in Eastern Massachusetts on a staggered schedule starting on April 4, 2000. Phase One would begin on April 4, 2000, in both the 508 and 617 NPAs and would pool all vacant unassigned thousands blocks (10) currently on the NANPA priority list created under the former jeopardy rationing procedures (Proposal at 3). Phase Two, which would begin June 13, 2000, for the 617 NPA and June 28, 2000, for the 508 NPA, would pool the vacant thousands blocks from the carriers' embedded (assigned) base of exchange codes (id.). Phase Three would not begin until February 1, 2001, and would pool the contaminated (partially populated) thousands blocks from the carriers' embedded base of exchange codes using the new NPAC 3.0 mechanized pooling software expected to be released in October 2000 (id.). Bell Atlantic would begin Phases Two and Three for the 781 and 978 NPAs (there are no Phase One blocks) on a different schedule, which Bell Atlantic expects to announce next week.

While Bell Atlantic's proposal may, in fact, be responsive to the urgent requirement for prompt action to avoid the necessity for any new area codes, the Attorney General has no way to make this determination. The answer to the question requires consideration of the size of the existing inventory of vacant thousand blocks (both assigned and unassigned) and that information has not been made available to the Attorney General or any party beyond the Department. (11) In these circumstances, the Attorney General submits that it would be appropriate for the Department to approve Phases One and Two of the Bell Atlantic Proposal because those aspects of the Proposal appear to seek no more time than is necessary for reasonably prompt implementation. However, the Department should not approve the proposed twelve-month delay to implement Phase Three unless it first determines that such a delay is consistent with a number conservation plan that will eliminate the need for new area codes in the foreseeable future. Absent such a finding, the Department should instead order that Bell Atlantic proceed with implementation of TNP across the four Eastern Massachusetts NPAs on the following schedule:

Complete TNP implementation (Phases One, Two and Three) to commence no later than June 1, 2000, for the 617 NPA, July 15, 2000, for the 508 NPA, September 1, 2000, for the 781 NPA, and October 15, 2000, for the 978 NPA.

5. Conclusion.

Many carriers are ramping up their local telephone service offerings, creating increased consumer demand and increased need for number pooling to delay the introduction of new area codes. This escalating competition brings many rewards to consumers but, at the same time, brings new demands for numbering resources. The Department has been urged repeatedly to implement various area code conservation

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methods to avoid the unnecessary and avoidable consequences of new area codes, e.g., substantial costs and disruptions to consumers and an increased burden on businesses. The Department should not approve Bell Atlantic's Proposal unless the Department finds that the Proposal will significantly delay or prevent the introduction of new area codes. If the Department cannot make this finding, then the Attorney General submits that the Department should order complete TNP implementation according to the schedule recommended by the Attorney General.

Respectfully submitted,

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COMMONWEALTH OF MASSACHUSETTS
DEPARTMENT OF TELECOMMUNICATIONS AND ENERGY

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CERTIFICATE OF SERVICE

I hereby certify that I have this day served the foregoing document upon each person designated on the official service list compiled by the Secretary in this proceeding by e-mail and either hand delivery, mail, or fax.

Dated at Boston this 4th day of February 2000.

Karlen J. Reed

Assistant Attorney General

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1. TNP is a method of allocating telephone numbers in blocks of 1,000, instead of 10,000, as is currently done. Eastern Massachusetts is divided up into 203 rate centers, so each carrier that wishes to offer local phone service throughout Eastern Massachusetts must acquire over 2 million numbers. This allocation system, coupled with the existing arcane system of rate centers and the increased demand for new numbers, results in an enormous waste of phone numbers, accelerating the need for new area codes. Number pooling should ease the pressure for numbers because local number portability ("LNP")-capable carriers will apply for numbers in blocks of 1,000, not 10,000, and can tailor more accurately their requests for numbers. Carriers that are not LNP-capable must continue to accept full blocks of 10,000, according to the FCC.

2. It is important to note that in addition to ordering timely implementation of TNP as a means to avoid new area codes, the New York Public Service Commission ("NYPSC") has also recently adopted a form of rate center consolidation as yet another means of reducing the extent of the unnecessary waste of number resources. In particular, on December 2, 1999, the NYPSC ordered the implementation of wide area rate centers ("WARC") in conjunction with its TNP implementation order. See Proceeding on Motion of the Commission Pursuant to Section 97(2) of the Public Service Law, to Institute an Omnibus Proceeding to Investigate the Efficiency of usage of Telephone Numbering Resources and to Evaluate the Options for Making Additional Central Office Codes and/or Area Codes Available in Areas of New York State When and Where Needed, Order Instituting Wide Area Rate Centers and Number Pooling, NYPSC Docket No. 98-C-0689 (December 2, 1999) ("NY Pooling Order"). Using WARC, a carrier would use a single NXX code, or block of 10,000 numbers, throughout the entire local access transport area ("LATA"), instead of within one small rate center. The WARC and all NXX codes assigned to it would be included in the local calling area for every customer. A carrier wanting to provide local service in all traditional rate centers could use its NXX code LATA-wide, thus conserving the use of NXX codes (NY Pooling Order at

3-4).

3. In the typical telephone number, NNX-NXX-XXXX, the NNX represents the area code or NPA, the NXX represents the exchange code, and XXXX represents the individual phone number. An exchange code contains one 10,000 block of numbers, or ten 1,000 blocks of numbers, or 10,000 individual telephone numbers. An NPA contains 1,000 exchange codes.

4. Request of MediaOne Telecommunications of Massachusetts, Inc. for Additional NXX Codes, pursuant to FCC CC Docket No. 96-98 (released September 15, 1999), filed December 16, 1999.

5. The former lottery allocation system awarded up to 6 exchange codes per month in each of the 508 and 617 NPAs, 8 exchange codes per month in the 781 NPA, and 10 exchange codes per month in the 978 NPA. The 413 NPA is not part of the lottery system at this time; however, because this NPA's new projected exhaust date is 3Q 2002, the Attorney General expects that later this summer NANPA will declare this NPA in jeopardy and that the industry will impose a lottery rationing procedures on 413 as well.

6. This same conclusion was reached later by the New York Public Service Commission during a similar jeopardy procedures meeting for the 716 NPA on January 18, 2000. The NYPSC had ordered pooling to begin in the 716 NPA on April 1, 2000, and the NYPSC filed a statement with NANPA on February 1, 2000, that the proposed emergency/imminent exhaust pool would threaten 716 NPA pooling trial. The NYPSC, as part of its delegated authority from the FCC to conduct interim number pooling, directed NANPA not to release the set aside codes to the exhaust pool and directed carriers seeking additional exchange codes to apply to the NYPSC for those numbering resources (NYPSC Letter Order dated 2/1/2000).

7. Massachusetts Department of Telecommunications and Energy's Petition for Waiver of Section 52.19 to Implement Various Area Code Conservation Methods in the 508, 617, 781, and 978 Area Codes, CC Docket No. 96-98, FCC No. 99-246, NSD-L-99-19 filed February 17, 1999 ("Massachusetts FCC Petition").

8. In the Matter of Massachusetts Department of Telecommunications and Energy's Petition for Waiver of Section 52.19 to Implement Various Area Code Conservation Methods in the 508, 617, 781, and 978 Area Codes, CC Docket No. 96-98, FCC No. 99-246, NSD-L-99-19 (released September 15, 1999) ("Massachusetts FCC Order"). In the Massachusetts FCC Order, the FCC granted the Department interim authority to: (1) order mandatory thousands block number pooling trials; (2) reclaim unused and reserved NXX codes; (3) maintain rationing procedures for six months following area code relief; (4) set numbering allocation standards; and (5) hear and address claims of carriers seeking numbering resources outside of the rationing process (Massachusetts FCC Order at 1).

9. The Illinois Commerce Commission ordered TNP for the 847 NPA in May 1998, for the 630 NPA in July 15, 1999, for the 312 NPA by August 16, 1999; for the 773 NPA by October 1, 1999; and for the 708 NPA by February 1, 2000. Lockheed Martin IMS Petition for Approval of NPA Relief Plans for the 312, 630, 708 and 773 NPAs, ICC Docket No. 98-0847, Interim Order (June 30, 1999). The California Public Utilities Commission ordered TNP to begin by March 18, 2000, in the 310 area code. Decision, CPUC Docket No. 99-09-067 (November 4, 1999); Order Instituting Rulemaking on the Commission's Own Motion Into Competition for Local Exchange Service, Rulemaking Dockets 95-04-043 and 95-04-044, Assigned Commissioner's Ruling Setting Schedule and Rules for Implementation of the 310 Area Code Number Pooling Trial (November 15, 1999). The New York Public Service Commission ordered TNP to begin by April 1, 2000, in the 716 NPA. NY Pooling Order (decided December 2, 1999). The NYPSC previously allowed carriers to voluntarily participate in TNP trials in the 212 and 718 NPAs. The New Hampshire Public Utilities Commission ordered TNP to begin by May 1, 2000, in the 603 NPA (Implementation of Number Conservation Methods Authorized by the Federal Communications Commission, NHPUC Docket No. DT 00-001, Order No. 23,385, Order Implementing Conservation Measures (decided January 7, 2000). The Maine Public

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Utilities Commission ordered TNP to begin by June 1, 2000, in the 207 NPA. Public Utilities Commission Investigation into Area Code Relief, MPUC Docket No. 98-634, Order (November 4, 1999). These state commissions all required their carriers to implement TNP using the existing number pooling software, the NPAC 1.4 Release, rather than wait either for national TNP standards or the October 2000 release of the NPAC 3.0 software version.

10. A thousands block is a block of 1,000 numbers.

11. The carriers submitted this confidential information to the Department pursuant to assurances that the disaggregated information would not be disclosed and that any aggregate information would be disclosed only pursuant to Departmental order (November 24, 1999 Memorandum at 1-2, D.T.E. 99-99). The Department has not released either any information concerning the aggregate numbers of vacant blocks available for pooling or any other report containing summary information that does not disclose confidential detail.